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SUBJECT: Media Reform in Thailand: The Good, the Not-so-Bad, and the Ugly

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Summary

11. (SBU) Over the last few months, Thailand's interim government has introduced three pieces of important legislation governing media in the country. In August, a new printing bill, nullifying the antiquated 1941 Printing Act, was passed by the National Legislative Assembly (NLA) and now awaits endorsement by the King. Thailand's first piece of cyber crime legislation, the 2007 Computer Crime Act, was enacted in June. Just weeks later, the cabinet endorsed the draft Radio and Broadcast Bill that, once passed, will replace current outdated legislation drafted in 1955. While the Printing Act and the Radio and Broadcast Bill are considered by most as positive steps towards media freedom, the Computer Crime Bill has been the target of harsh criticism and is viewed as a large step backwards in promoting freedom of expression in Thailand. End Summary.

The Good: The Printing Bill

12. (SBU) The August 29 passage of the Printing Bill by the National Legislative Assembly marked an important turning point for the press, undoing the 1941 Printing Act that required newspaper publishers to be licensed and gave authorities power to shut down newspapers. Law enforcement authorities had the power to censor; newspapers and magazines were shut down under the 1941 Act for real or perceived violations. Under the new law, newspapers will no longer need a special license to publish and will only be required to notify regulatory authorities, like any other business, and register mastheads. The Printing Bill also abolished three amendments to the bill and three Revolutionary Announcements enacted after the September 2006 coup that further inhibited the press. In short, the police will no longer have the authority to stop the presses. The reporters we spoke to about the new Printing Bill were unanimous in agreeing that the bill represents a new era of press freedom for Thailand.

13. (SBU) Passage of the bill was uncertain and the path to success a tumultuous one. After the coup of September 2006, the Council for National Security seemed intent on using the old law to stifle criticism. Indeed, the National Legislative Assembly seemed intent on keeping the old law, but established a special committee that included media representatives to review the Printing Act. By April 2007 the media representatives had quit in frustration with the committee and Prime Minister Surayud came under heavy pressure to

scrap the 1941 Press Act. (Comment: It appears as if this pressure successfully swayed the NLA to eventually support the legislation. End comment.)

14. (SBU) The new bill still makes material deemed offensive to the monarchy a criminal offense, punishable by fines and imprisonment. The bill will not become law until it is printed in the Royal Gazette, which is seen as a formality.

The Not-So-Bad: Draft Radio and Broadcasting Bill

15. (SBU) In July, the Thai cabinet endorsed the draft Radio and Television Broadcasting Bill, which is now awaiting consideration by the National Legislative Assembly (NLA). The legislation, if passed, will pave the way for more comprehensive regulation and control of television and radio operations in Thailand.

16. (SBU) Under the draft bill, licenses for broadcasting frequencies would fall into three categories - public service, community service and business-based operations -- each with specific content requirements. To obtain a license for public service, a broadcaster must devote 70 percent of its contents to education, arts and culture, health, sports and national security issues. Non-profit organizations and local groups can apply for licenses to operate community radio or television stations as long as 70 percent of content is directed to the interests of local populations. In the case of business-oriented licenses, an operator must ensure that news, documentaries and other substantive issues make up at least 20 percent of its content. These content requirements must be met throughout the concession term -- seven years for radio and 15 years for television. Business-oriented broadcasters are the only operators that can generate income from advertisements, though they must contribute a portion of advertising fees to a broadcasting fund that will support public and community services.

17. (SBU) Under the bill, community radio, cable, and satellite

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television stations operating without authorization can apply for temporary licenses with an interim regulatory body. New operators seeking first-time licenses must wait until a permanent regulatory body, as stipulated in the new constitution, is established (Note: During a October 4 meeting with Mass Communication of Thailand (MCOT) executives, PAO was advised that it could take a year or more after this draft law is passed before this body will be formed. End note.)

18. (SBU) This new law is part of the interim government's efforts to reform the broadcast industry, governed until now by the outdated 1955 Broadcasting Act. The 1955 act does not provide provisions for the operation of community radio, cable or satellite television stations, leaving the more than 3,000 community radio stations and approximately 400 cable television stations to operate without authorization.

19. (SBU) For the most part, both media activists and operators view this bill as a positive step towards more effective and fair regulation of local television and radio operations. However, content providers and the satellite television industry have expressed concern over some aspects of the draft bill, including the absence of stipulations requiring regulators to suspend or cancel the licenses of IPR offenders and the limited application of anti-circumvention provisions. A member of the NLA recently informed emboffs that the bill was on the "priority" list of drafts to be considered by the NLA, but it is not clear whether the draft indeed will pass before the December general elections.

The Ugly: 2007 Computer Act

110. (SBU) In July, the 2007 Computer Act was enacted, giving the Ministry for Information and Communication Technology (MICT) authority to request and enforce the suspension of information disseminated via computer. Under the act, a maximum five year jail sentence and a 100,000 baht (approximately \$3,000) fine can be

imposed for posting false content on the Internet that undermines public security, causes public panic or hurts others. A maximum 20-year sentence and 300,000 baht (approximately \$9,000) fine can be imposed if an offence results in the death of an individual. The law obliges Internet service providers to preserve all user records for 90 days, in the event that officials wish to access them. In addition, any service provider who intentionally consents to or supports the publishing of illegal content is also subject to prosecution under the law. In the worst case, violators could face a prison sentence for using proxy servers to access websites blocked by the government.

¶11. (SBU) Media activists and other observers have strongly criticized the act, stating that the law is far too ambiguous and that some penalties are too harsh relative to the offence committed. They worry authorities have too much power to crack down on content considered a "threat" to Thailand. A prominent media activist told AIO during an informal lunch that unlike many cyber crime laws in other countries, which tend to focus on protection against the spread of spam, viruses and child pornography via the internet, the Thai law incorporates concerns for public order, national security, and morality in its cyber crime legislation. She went on to say that the broad powers given to authorities would create a "climate of fear" among those who operate in the cyber environment. In August, two individuals -- a well-known web administrator and an internet blogger -- were the first known individuals charged under the new act for allegedly posting online comments considered critical of Thailand's revered monarchy (reftel).

Comment

¶12. (SBU) While on the one hand the Printing Bill represents a step forward for freedom of expression, the Computer Act is perceived by many as a step backwards. Although it is too early to tell how this act will ultimately impact free expression on the internet, it is safe to say that the law fails to measure up to the Council of Europe's Convention on Cybercrime, the only binding international instrument on this issue. The future of the broadcasting bill is also not entirely certain and we will continue to track its content in light of IPR and other concerns. In the end, all three of these new pieces of media legislation present both challenges and opportunities for freer expression in Thailand and bear continued close monitoring. End comment.

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